

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Numbering Resource Optimization) CC Docket No. 99-200
)
FCC Seeks Comment on the Thousands-Block)
Pooling Administrator Technical Requirements)
)

To: The Commission

REPLY COMMENTS OF SYNIVERSE TECHNOLOGIES

Syniverse Technologies (“Syniverse”) submits the following replies to the initial comments filed regarding the draft technical requirements document (“TRD”) for the thousands-block number pooling administrator (“PA”) contract.¹ The initial comments in this proceeding² primarily demonstrate the crucial importance for the Commission to resolve a number of ambiguities that exist in the draft TRD before the request for proposals (“RFP”) for the PA is issued, in many cases simply by eliminating requirements that are clearly hold-overs from the technical requirements document that was created for the initial PA contract, before any PA systems or procedures existed. Further, Syniverse agrees with the State Commission commenters that the PA should have flexibility to use more than just NRUF data to determine demand for purposes of stocking the number pools.

¹ *FCC Seeks Comment on the Thousands-Block Pooling Administrator Technical Requirements*, CC Docket No. 99-200, Public Notice, DA 05-3102 (rel. Nov. 29, 2005, erratum Dec. 2, 2005) (the “Public Notice”). The Public Notice attached the NANC’s proposed technical requirements document (the “TRD”).

² Comments were timely filed by Syniverse, Telcordia, the Maine PUC, the Nebraska PSC, the New York DPS, the Washington UTC, NeuStar as the PA, and NeuStar as the NANPA.

I. TRANSITION OF THE PA SYSTEM

Unlike the original PA procurement, because the PA system has now been created and many of the technical requirements proven valid through actual implementation, several of the commenters shared a few common concerns. The sole area where there was a significant difference of view relates to a legacy provision in the draft TRD that suggests that a successor PA will be required to build a new pooling administration system, notwithstanding other provisions that clearly contemplate that the next PA will assume administration of the existing system. Specifically, Section 3.1 of the draft, a provision that appeared in the initial November 30, 2000 TRD, requires that the “contractor shall *build* and maintain a pooling administration system,” resulting in a direct conflict among commenters as to the precise parameters of the incumbent PA’s transition responsibilities.³

As Syniverse observed in its initial comments,⁴ since the basis for the current draft TRD was the original technical requirements formulated for the first-time procurement of a PA, it is not surprising that certain language from the original document (such as the word “build” in section 3.1) was inadvertently retained in this new version of the TRD. Considered in context, however, it is clear that in both the initial November 2000 TRD and the RFP leading to the contract eventually awarded to NeuStar the Commission intended for the incumbent PA to transition the existing pooling administration system to any succeeding contractor. Indeed, because the original November 2000 TRD (and subsequent RFP) specified transition obligations identical to those in the current draft TRD, the ambiguity between these provisions cannot be

³ See, e.g., Syniverse comments at 5; Telcordia comments at 2; NeuStar PA comments at 2.

⁴ Syniverse comments at 2-3, 5.

resolved in any other way.⁵ Furthermore, this is confirmed by the Commission’s action in fiscal year 2004, when the Commission’s Office of the Inspector General hired a consultant to “audit NeuStar’s Thousands-Block Pooling administration contract to determine and report upon NeuStar’s compliance with contractual requirements intended to ensure the seamless transfer of the Thousands-Block Pooling system to a successor in the event of the contract’s termination or expiration of the term.”⁶ The scope of that audit “included the review of the Thousands-Block Pooling System and its software, designated hardware, computers and related equipment, and other peripheral devices ...” as well as “system documentation and current and historical records that NeuStar is required to maintain and transfer to a successor”.⁷ Despite NeuStar’s suggestion to the contrary,⁸ it is thus clear that the Commission long has intended, and the current contract with NeuStar requires, that the current system be transferred to a successor PA rather than for the successor to construct a new system. In light of the concerns raised by NeuStar’s interpretation, however, Syniverse agrees with Telcordia that the Commission must “make available to all prospective bidders an assurance that the current system will transition to the selected vendor, and provide access to all current system documentation and source code.”⁹

⁵ See, e.g., TRD Section 3.20 (regarding “Pooling System Transfer to Successor”). Syniverse has an outstanding Freedom of Information Act (“FOIA”) request seeking a complete copy of the current PA contract, but has not yet received that document. See Letter from J. Randolph MacPherson, counsel to Syniverse Technologies, to FCC Managing Director, FOIA Officer, dated Dec. 8, 2005. Syniverse urges the FCC to make the current contract available to all potential offerors without further delay.

⁶ *FY 2004 Thousands-Block Pooling System Viability Audit*, Office of Inspector General, Audit Report No. 04-AUD-08-15 (Mar. 23, 2005) (“Audit Report”).

⁷ *Id.* at 3.

⁸ NeuStar “respectfully suggests that a clarification be inserted into the TRD to explain that ... the development of an entirely new system is required under the upcoming contract.” NeuStar PA comments at 2.

⁹ Telcordia comments at 2. See also *id.* at 6, item 15.

NeuStar's position is not only contrary to the requirements of the original November 2000 TRD and resulting RFP (and the resulting contract with NeuStar), but also flies in the face of both strong public policy interests and Federal procurement principles. Compared with construction of a new system, transition of the existing system to the successor contractor will significantly reduce the cost and dislocation of any change in the PA. Moreover, while the Government normally is not required to equalize any competitive advantage an incumbent contractor may have due to its experience under a government contract, a contracting entity may not provide an incumbent with preferential treatment or take other improper action which results in such an advantage.¹⁰ In light of explicit and clear PA system transition requirements in the original November 2000 TRD, the resulting RFP and the contract with NeuStar as discussed in the FCC OIG Audit Report, it is apparent that if the FCC now were to change course and require development and construction of an entirely new PA system this would be both preferential treatment of NeuStar and unfair, anticompetitive action.¹¹ Furthermore, the industry and the government already have paid for the existing PA system, and there is no apparent reason to impose on the industry and Commission the additional cost of the construction of another new system. Carriers and their vendors also have developed interfaces to work with the existing system; if a new system was required, that system would either have to replicate the existing interfaces and specifications (requiring an inordinately detailed RFP and another arduous

¹⁰ See Crofton Diving Corporation, B-289271, Jan. 30, 2002, 2002 CPD ¶ 32 at 6; Bironas, Inc., B-249428, Nov. 23, 1992, 92-2 CPD ¶ 365, at 3; T-L-C Systems, B-223136, Sept. 15, 1986, 86-2 CPD ¶ 298, at 3.

¹¹ This is particularly true where, as here, there is a general industry consensus that current PA system works reasonably well. See, e.g., Numbering Oversight Working Group Report to NANC, July 19, 2005.

development process) or the change would impose on the industry the additional costs of modifying their interfaces to conform to the new system.

NeuStar not only suggests that the successor PA should build a new system, but also that the current system should first be transitioned.¹² Syniverse strongly opposes any consideration by the Commission of such an approach, as it would impose the costs and burdens of *both* the development of a new system *and* a transition of the existing system to a successor PA, needlessly providing preferential treatment to the incumbent at the expense of other offerors. If additional time is needed between the time of the award and the end of the current contract to assure a smooth transition, this is best accomplished through a brief extension of the current contract under the “Continuity of Services” clause of NeuStar’s contract.

NeuStar further proposes that “the Commission should be clear that offers to enhance the existing system in lieu of building a new system will not be accepted.”¹³ This approach also should be rejected, because it would deny the industry and the Commission the possibility that new offerors may propose innovative improvements to the pooling administration process.¹⁴ Indeed, in order that prospective offerors can propose appropriate improvements, Syniverse agrees with Telcordia that “all prospective vendors should be given reasonable access to [the PA]

¹² NeuStar “respectfully suggests that a clarification be inserted into the TRD to explain that although the existing system would be transitioned to afford a newly selected vendor the ability to process applications while the new system is being built, the development of an entirely new system is required under the upcoming contract.” NeuStar PA comments at 2.

¹³ *Id.*

¹⁴ *See, e.g.,* Syniverse comments at 3-4.

system, code, and documentation to assess the enhancements needed to meet the requirements of the [TRD].”¹⁵

II. STATE COMMISSIONS ARE CORRECT THAT THE PA SHOULD HAVE FLEXIBILITY TO ACCURATELY FORECAST DEMAND

All of the State Commission commenters pointed out that the TRD appears to limit the successor PA to using only carrier NRUF forecast data to determine demand and inventory levels in the various number pools.¹⁶ The State Commissions argue that the PA’s current practice includes the use of other factors, such as historical take rates and usage levels in particular rate centers and the amount of time necessary to activate new blocks.¹⁷ The State Commissions argue persuasively that use of such other information is necessary for accurate forecasting and appropriate stocking of the pools. Syniverse agrees that the successor PA should be permitted to use all relevant data to forecast demand and determine appropriate pool inventory levels. This should be reflected in modifications to sections 2.1.2; 2.14.1; 2.17.1; and 2.18.1 of the TRD in the ultimate RFP.

¹⁵ Syniverse also agrees with Telcordia (at 6, item 15) that any assessment by the Commission of how the existing PA system met the original technical requirements (or has, instead, fallen short of doing so) should be provided to all potential offerors prior to the deadline for responding to any RFP that may be issued; it is unfair to require new offerors to meet requirements which the incumbent provider has already been excused from satisfying. Additionally, the Commission should clarify that the Transition Plan referred to in Section 3.20.5 of the draft TRD, which also was required by Section 3.20.5 of the November 2000 TRD, resulting RFP and NeuStar’s contract, will be provided to prospective offerors as part of the new RFP. The information contained in such a plan is critical to ensuring all offerors have equal access to the information necessary to prepare a proposal addressing transition of the PA system to a successor contractor.

¹⁶ TRD §§ 2.1.2; 2.14.1; 2.17.1; 2.18.1.

¹⁷ *See, e.g.*, New York comments at 4-5; Nebraska comments at 4-5; Washington comments at 2-3; Maine comments at 2-3. *See also* NeuStar PA comments at 4.

III. OTHER ISSUES

Section 1.4: Response to Regulatory Change. In its comments, NeuStar proposes that the PA's time to respond to regulatory change should be conformed to the requirements applicable to the NANPA and the B&C Agent pursuant to section 52.12(c) of the Commission's Rules.¹⁸ Section 52.12(c), however, does not currently apply to the PA. In the event that the Commission wishes to give the PA, the NANPA, and the B&C Agent equal opportunity to examine and respond to regulatory changes, it should do so in a manner that avoids gratuitous references or unnecessary implications of a connection between the NANPA and the PA. Although at present the two contracts are held by the same vendor, there is no necessary connection between the two. In order to ensure the greatest value for the government and the industry, the Commission should strive to minimize unnecessary suggestions in the RFP of any corporate relationship between the PA and the NANPA.¹⁹

¹⁸ NeuStar PA comments at 3.

¹⁹ *See also* Syniverse comments at 6-7.

CONCLUSION

Syniverse respectfully requests that the Commission make the changes noted herein when formulating the RFP for the PA procurement.

Respectfully submitted,

SYNIVERSE TECHNOLOGIES

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